

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

CRP.No. 756 of 2001(I)

LB(B).2-41/1986 of LAND BOARD OF KERLA, TRIVANDRUM

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REVN. PETITIONERS: (CLAIMANTS 1 TO 4)

- 1. KANDANKADAVATH MOHAMMED,
S/O. VAKAYIL PATHUMMA, MELEMURI
AMSOM DESOM, TIRUR TALUK (DIED)**
- 2. KANDANKADAVATH VEERAN, S/O. DO. R/RT DO.**
- 3. KANDANKADAVATH KUNHAMMED, S/O. DO. R/AT DO.**
- 4. KANDANKADAVATH MOHAMMEDKUTTY, S/O. DO. R/AT DO.**

ADDL. P5 TO P15 ARE IMPLEADED.

- 5. UNNEEMA, W/O. LATE KANDANKADAVATH MOHAMMED.**
- 6. ABDUL KAREEM, S/O. LATE KANDANKADAVATH MOHAMMED.**
- 7. KUTTEETHU , S/O. LATE KANDANKADAVATH MOHAMMED.**
- 8. SULAJKAH, D/O. LATE KANDANKADAVATH MOHAMMED.**
- 9. MYMOONA, D/O. LATE KANDANKADAVATH MOHAMMED.**
- 10. SAINABA, D/O. LATE KANDANKADAVATH MOHAMMED.**
- 11. MOHAMMED ALI, S/O. LATE KANDANKADAVATH MOHAMMED.**
- 12. AYSHA, D/O. LATE KANDANKADAVATH MOHAMMED.**
- 13. FATHIMA, D/O. LATE KANDANKADAVATH MOHAMMED.**
- 14. RUKHIYA, D/O. LATE KANDANKADAVATH MOHAMMED.**

CRP. NO. 756/2001

15. RAMLA, D/O . LATE KANDANKADAVATH MOHAMMED.

**(ALL ARE R/AT KANDANKADAVATH , MELMURI AMSOM,
DESOM, TIRUR TALUK.)**

**SUPPLEMENTAL PETITIONERS 5 TO 15 ARE IMPEADED AS
THE LEGAL REPRESENTATIVES OF DECEASED PETITIONER 1 AS
PER ORDER DT. 18.9.07 IN IA. 2246/07.**

**BY ADV. SRI.A.P.CHANDRASEKHARAN
SRI.T.SETHUMADHAVAN
SRI.PUSHPARAJAN KODOTH
SRI.M.KRISHNAKUMAR(MOHANKUMAR ASSOCIATES
SRI.K.JAYESH MOHANKUMAR
SMT.PRABHA R.MENON**

RESPONDENTS:

- 1. THE STATE OF KERALA,
REP.BY ITS CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE LAND BOARD, KERALA, THIRUVANANTHAPURAM.**
- 3. THE TAHSILDAR, TIRUR.**
- 4. THE TAHSILDAR, PONNANI.**

BY GOVERNMENT PLEADER SRI.BASANT BALAJI

**THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 18/09/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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M.N. KRISHNAN, J.

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C.R.P. NO. 756 OF 2001

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Dated this the 18th day of September, 2007.

O R D E R

This Civil Revision Petition is preferred against the order of the State Land Board, Thiruvananthapuram dated 19.1.01. The subject matter of the case relates to the ceiling case of one Sankara Narayanan Namboodiri whereby it appears that the Court directed to surrender 62.73 acres of land. The revision petitioner before this Court are (1) Kandankadavath Mohammed (2) Veeran (3) Kunhammed and (4) Mohammedkutty. Kandankadavath Mohammed died during the pendency of the revision and his legal representatives had been impleaded as supplemental petitioners 5 to 15. He has claimed 10.66 acres in Sy.No.193/3 and 18 cents in Sy.No.193/1. The revision petitioners 2 to 4 have claimed 18 cents of land each in Sy.No.193/1. The learned counsel for the revision petitioners submits that the property claimed by

them was taken on lease by their predecessors-in-interest and in the year 1969 there was a gift deed executed as 842/69 and the parties on the basis of the document have obtained certificate of purchase etc. and therefore they are entitled to the said property and it cannot be taken into consideration for fixing the ceiling limit of Sri. Sankara Narayanan Namboodiri. Under the provisions of the Kerala Land Reforms Act it has to be held that if the predecessor-in-interest of the revision petitioners are tenants of the property entitled to fixity of tenure by virtue of creation of lease prior to 1.4.64 they will be entitled to fixity of tenure whereby the right and interest of the landlord vests in the Government under Section 72 of the Kerala Land Reforms Act. Therefore, the question that arises for determination in these cases relates to the tenancy claim set up by the predecessors-in-interest of the revision petitioners. If they succeed in proving that they were tenants prior to 1.4.64 and that they had transferred the property by virtue of the gift deed alleged in the petition then certainly these areas cannot be taken into

consideration for fixing the ceiling limit of the declarant. I am informed that the entire extent of 10 acres had been taken in to account for fixing the ceiling limit of the declarant. It will be incorrect if it is proved that it belongs to the predecessor-in-interest of the claimants as a tenant. But, unfortunately, it appears that the parties did not appear before the State Land Board and adduce evidence or produce sufficient documents to establish that factor and therefore the Board did not entertain their claims.

2. Now, the learned counsel for the revision petitioners submits that he will be in a position to establish his case by cogent and convincing documentary evidence and therefore prays for an opportunity to place the same before the Land Board for consideration. The extent of the property involved is quite extensive and therefore in the interest of justice it is only just to grant a reasonable opportunity to the revision petitioners to put forth their contentions. Therefore, the order passed against the revision petitioners 1 to 4 are set aside and the matter is remitted back to the State Land

C.R.P. No. 756 OF 2001

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Board for fresh consideration in the light of the discussions made in the previous paragraphs. The State Land Board shall fix a date of hearing and intimate the parties sufficiently in advance so that they can get ready with the evidence.

The Registry is also directed to carry out the amendment in the revision petition and transmit the records back to the State Land Board for fresh consideration and determination.

M.N. KRISHNAN, JUDGE.

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C.R.P. No. 756 OF 2001

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M.N. KRISHNAN, J.

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C.R.P. No. 756 OF 2001

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O R D E R

18th September, 2007.